



PROPOSED REVISIONS
SB437 (S-1) and
HB4298 (H-2)

KEY:

BOLD ALL CAPS TEXT = In bill as introduced

~~sticken non-bold text~~ = In bill as introduced

BOLD ALL CAPS UNDERLINED TEXT = Proposed additions by MIACCA

~~**bold sticken underlined text**~~ = Proposed deletions by MIACCA

-PROPOSED REVISIONS TO SECTIONS RELATING TO CODE OF CONDUCT AND
APPLIANCE SERVICE PROGRAMS-

Starting on Section 10(a):

(10) ~~(4) No later than December 2, 2000, the~~ **THE** commission shall establish a code of conduct that shall apply **APPLIES** to all electric utilities. The code of conduct shall include, but is not limited to, measures to prevent cross-subsidization, information sharing, and preferential treatment, between a **AN ELECTRIC** utility's regulated **ELECTRIC SERVICES** and unregulated **RETAIL OPEN ACCESS** **PROGRAMS AND OR** services, whether those services are provided by the utility or the utility's affiliated entities. The code of conduct ~~established under this subsection shall also be~~ **IS** applicable to electric utilities and alternative electric suppliers consistent with section 10, this section, and sections 10b through 10cc.

(11) ~~(5) An electric utility may offer its customers an appliance service program~~ **AND OTHER VALUE ADDED PROGRAMS AND SERVICES** PROVIDED THAT: ~~Except as otherwise provided by this section, the utility shall comply with the code of conduct established by the commission under subsection (4). As used in this~~

1
2 section, "appliance service program" or "program" means a
3
4 subscription program for the repair and servicing of heating and
5
6 cooling systems or other appliances.
7

8 (A) THE ELECTRIC UTILITY SHALL NOT SUBSIDIZE ANY PROGRAM
9
10 BEYOND WHAT IS SPECIFICALLY ALLOWED IN THIS SUBSECTION;
11

12 (B) THE OFFERED PROGRAM DOES NOT EXCEED 10% OF THE MARKET
13
14 SHARE OF THE SPECIFIC MARKET COMPETING IN AS DETERMINED BY THE
15
16 COMMISSION. THE COMMISSION MAY HIRE A THIRD PARTY CONSULTANT TO
17
18 DETERMINE "MARKET SHARE" AND CHARGE THE UTILITY FOR SUCH EXPENSE;
19
20 AND
21

22 (C) THE OFFERED PROGRAMS FALL WITHIN THE SCOPE OF ELECTRIC
23
24 GENERATION AND DISTRIBUTION OR NATURAL GAS DISTRIBUTION OR ENERGY
25
26 WASTE REDUCTION.
27

28 (12) ~~(6)~~ A utility offering a program under subsection ~~(5)~~ (11)
29 shall do all of the following:
30

31
32 (a) Locate within a separate department of the utility or
33 affiliate within the utility's corporate structure the personnel
34 responsible for the day-to-day management of the program.
35

36 (b) Maintain separate books and records for the program and
37
38 ~~access to which shall be made available to the commission upon~~
39
40 ~~request.~~ AND PROVIDE AN ANNUAL REPORT TO THE COMMISSION SHOWING
41
42 HOW THE ELECTRIC UTILITY ALLOCATED ALL ELECTRIC UTILITY COSTS TO
43
44 THE PROGRAMS OFFERED OR PROVIDED SERVICES TO. THE ANNUAL REPORT
45
46 SHALL ALSO SHOW TO WHAT EXTENT THE ELECTRIC UTILITY RATES WERE
47
48

1
2 **AFFECTED BY SUCH ALLOCATION.**
3

4 (c) Not promote or market the program through the use of
5
6 utility billing inserts, printed messages on the utility's billing
7
8 materials, or other promotional materials included with customers'
9
10 utility bills, **EXCEPT FOR THOSE PROGRAMS OR SERVICES RELATED TO**

11
12 **ENERGY WASTE REDUCTION.**
13

14 (13) ~~(7)~~ All costs directly attributable to an appliance
15
16 service ~~A~~ program allowed under subsection ~~(5)~~ **(16)** shall be
17
18 allocated to the program as required by this subsection. The direct
19
20 and indirect costs of employees, vehicles, equipment, SERVICES,
21
22 office space, and other facilities used in the appliance
23
24 service program shall be allocated to the program based upon the
25
26 amount of use by the program as compared to the total use of the
27
28 employees, vehicles, equipment, office space, and other facilities.
29
30 The cost of the program shall include administrative and general
31
32 expense loading to be determined in the same manner as the **ELECTRIC**
33
34 utility determines administrative and general expense loading for
35
36 all of the **ELECTRIC** utility's regulated and ~~unregulated~~ **NON-**
37
38 **ELECTRIC UTILITY** activities. ~~A subsidy by a utility does~~
39
40 ~~not exist if costs allocated as required by this subsection do not~~
41
42 ~~exceed the revenue of the program.~~ **THE COMMISSION SHALL INCLUDE**
43
44 **THE ALLOCATION OF ALL ELECTRIC UTILITY COSTS DIRECTLY ATTRIBUTABLE**
45
46 **TO A PROGRAM IN DETERMINING THE ELECTRIC UTILITY BASE RATES.**
47

48 (14) ~~(8)~~ **AN ELECTRIC** utility may include charges for its appliance

1
2 ~~service program~~ **PROGRAMS OFFERED UNDER SUBSECTION (11)** on its
3
4 monthly billings to its customers if the **ELECTRIC** utility complies
5
6 with all of the following requirements:

7
8 (a) **ALL INCREMENTAL AND NON-INCREMENTAL** costs associated with
9
10 the billing process, including the postage, envelopes, paper, and
11
12 printing expenses, are allocated as required under
13
14 subsection ~~(7)~~ **(13)**.

15
16 (b) A customer's regulated utility service is not terminated
17
18 for nonpayment of the ~~appliance service program portion~~ **PORTIONS** of
19
20 the bill.

21
22 (c) Unless the customer directs otherwise in writing, a
23
24 partial payment by a customer is applied first to the bill for
25
26 regulated service.

27
28 **(15)** ~~(9)~~ In marketing ~~its appliance service~~ **A** program **OFFERED**
29
30 **UNDER SUBSECTION (11)** to the public, ~~a~~ **AN ELECTRIC** utility shall do
31
32 all of the following:

33
34 (a) The list of customers receiving regulated service from the
35
36 utility shall be available to a provider of ~~appliance repair~~
37
38 ~~service~~ **THE PROGRAM** upon request within 2 business days. The
39
40 customer list shall be provided in the same electronic format as
41
42 ~~such~~ **THAT** information is provided to the ~~appliance service program~~.
43
44 A new customer shall be added to the customer list within 1
45
46 business day of the date the customer requested to turn on service.

47
48 (b) Appropriately allocate **ELECTRIC UTILITY** costs as required

1
2 under subsection

3
4 ~~(7)~~ **(13)** when personnel employed at a utility's call center provide
5
6 ~~appliance service~~ program marketing information to a prospective
7
8 customer.
9

10 (c) ~~Prior to~~ **BEFORE** enrolling a customer into the program, the
11
12 utility shall inform the potential customer of all of the
13
14 following:
15

16 (i) That ~~appliance service~~ programs may be available from
17
18 another provider.
19

20 (ii) That the ~~appliance service~~ program is not regulated by
21
22 the commission.
23

24 (iii) That a new customer ~~shall have~~ **HAS** 10 days after
25
26 enrollment to cancel his or her ~~appliance service~~ program contract
27
28 without penalty. ~~THIS CANCELLATION PERIOD DOES NOT APPLY TO A~~
29
30 ~~UTILITY'S OTHER VALUE ADDED PROGRAMS AND SERVICES OFFERED UNDER~~
31
32 ~~SUBSECTION (11).~~
33

34 (iv) That the customer's regulated rates and conditions of
35
36 service provided by the utility are not affected by enrollment in
37
38 the program or by the decision of the customer to use the services
39
40 of another provider of ~~appliance repair service~~. **A PROGRAM.**
41

42 (d) The utility name and logo may be used to market the
43
44 ~~appliance service~~ program provided that **IF** the program is not
45
46 marketed in conjunction with a regulated service. ~~To the extent~~
47
48 ~~that~~ **IF** a program utilizes the utility's name and logo in marketing

1
2 the program, the program shall include language on all material
3
4 indicating that the program is not regulated by the commission.
5
6 Costs shall not be allocated to the program for the use of the
7
8 utility's name or logo.
9

10 (16) ~~(10) This section does not prohibit the commission from~~
11 ~~requiring a utility~~ **THE COMMISSION IS NOT REQUIRED** to include
12
13 revenues from ~~an appliance service~~ **A** program in establishing base
14
15 rates. If the commission includes the revenues of ~~an appliance~~
16
17 ~~service~~ **A** program in determining a utility's base rates, the
18
19 commission shall also include all of the costs of the program as
20
21 determined under this section. **THE COMMISSION MAY PERMIT A UTILITY**
22
23 **TO RETAIN PROFITS GENERATED BY A PROGRAM, AND THE UTILITY MAY USE A**
24
25 **PORTION OF THE REVENUES FROM A VALUE ADDED PROGRAMS AND SERVICES TO**
26
27 **INVEST IN BUSINESS DEVELOPMENT OF NEW VALUE ADDED PROGRAMS AND**
28
29 **SERVICES.**
30

31
32 (17) IF AN ELECTRIC UTILITY CHOOSES TO OFFER A VALUE ADDED
33
34 PROGRAM AND OR SERVICE, THE ELECTRIC UTILITY ASSUMES THE BURDEN TO
35
36 DEMONSTRATE COMPLIANCE WITH THIS SUBSECTION.
37

38 ~~— (11) Except as otherwise provided in this section, the code of~~
39
40 ~~conduct with respect to an appliance service program shall not~~
41
42 ~~require a utility to form a separate affiliate or division to~~
43
44 ~~operate an appliance service program, impose further restrictions~~
45
46 ~~on the sharing of employees, vehicles, equipment, office space, and~~
47
48 ~~other facilities, or require the utility to provide other providers~~

1
2 ~~of appliance repair service with access to utility employees,~~
3
4 ~~vehicles, equipment, office space, or other facilities.~~

5
6 **(1718)** ~~(12)~~ This act does not prohibit or limit the right of a
7
8 person to obtain self-service power and does not impose a
9
10 transition, implementation, exit fee, or any other similar charge
11
12 on self-service power. A person using self-service power is not an
13
14 electric supplier, electric utility, or a person conducting an
15
16 electric utility business. As used in this subsection, "self-
17
18 service power" means any of the following:

19
20 (a) Electricity generated and consumed at an industrial site
21
22 or contiguous industrial site or single commercial establishment or
23
24 single residence without the use of an electric utility's
25
26 transmission and distribution system.

27
28 (b) Electricity generated primarily by the use of by-product
29
30 fuels, including waste water solids, which electricity is consumed
31
32 as part of a contiguous facility, with the use of an electric
33
34 utility's transmission and distribution system, but only if the
35
36 point or points of receipt of the power within the facility are not
37
38 greater than 3 miles distant from the point of generation.

39
40 (c) A site or facility with load existing on June 5, 2000 that
41
42 is divided by an inland body of water or by a public highway, road,
43
44 or street but that otherwise meets this definition meets the
45
46 contiguous requirement of this subdivision regardless of whether
47
48 self-service power was being generated on June 5, 2000.

1
2 (d) A commercial or industrial facility or single residence
3
4 that meets the requirements of subdivision (a) or (b) meets this
5
6 definition whether or not the generation facility is owned by an
7
8 entity different from the owner of the commercial or industrial
9
10 site or single residence.

11
12 **(1819)** ~~(13)~~ This act does not prohibit or limit the right of a
13
14 person to engage in affiliate wheeling and does not impose a
15
16 transition, implementation, exit fee, or any other similar charge
17
18 on a person engaged in affiliate wheeling. ~~As used in this section:~~

19
20 ~~— (a) "Affiliate" means a person or entity that directly, or~~
21
22 ~~indirectly through 1 or more intermediates, controls, is controlled~~
23
24 ~~by, or is under common control with another specified entity. As~~
25
26 ~~used in this subdivision, "control" means, whether through an~~
27
28 ~~ownership, beneficial, contractual, or equitable interest, the~~
29
30 ~~possession, directly or indirectly, of the power to direct or to~~
31
32 ~~cause the direction of the management or policies of a person or~~
33
34 ~~entity or the ownership of at least 7% of an entity either directly~~
35
36 ~~or indirectly.~~

37
38 ~~— (b) "Affiliate wheeling" means a person's use of direct access~~
39
40 ~~service where an electric utility delivers electricity generated at~~
41
42 ~~a person's industrial site to that person or that person's~~
43
44 ~~affiliate at a location, or general aggregated locations, within~~
45
46 ~~this state that was either 1 of the following:~~

47
48 ~~— (i) For at least 90 days during the period from January 1,~~

1
2 ~~1996 to October 1, 1999, supplied by self-service power, but only~~
3
4 ~~to the extent of the capacity reserved or load served by self-~~
5
6 ~~service power during the period.~~

7
8 ~~—— (ii) Capable of being supplied by a person's cogeneration~~
9
10 ~~capacity within this state that has had since January 1, 1996 a~~
11
12 ~~rated capacity of 15 megawatts or less, was placed in service~~
13
14 ~~before December 31, 1975, and has been in continuous service since~~
15
16 ~~that date. A person engaging in affiliate wheeling is not an~~
17
18 ~~electric supplier, an electric utility, or conducting an electric~~
19
20 ~~utility business when a person engages in affiliate wheeling.~~

21
22 ~~(1920)~~ (14) The rights of parties to existing contracts and
23
24 agreements in effect as of January 1, 2000 between electric
25
26 utilities and qualifying facilities, including the right to have
27
28 the charges recovered from the customers of an electric utility, or
29
30 its successor, shall ~~ARE~~ not be abrogated, increased, or diminished
31
32 by this act, nor shall the receipt of any proceeds of the
33
34 securitization bonds by an electric utility be a basis for any
35
36 regulatory disallowance. Further, any securitization or financing
37
38 order issued by the commission that relates to a qualifying
39
40 facility's power purchase contract shall fully consider that
41
42 qualifying facility's legal and financial interests.

43
44 ~~—— (15) A customer who elects to receive service from an~~
45
46 ~~alternative electric supplier may subsequently provide notice to~~
47
48 ~~the electric utility of the customer's desire to receive standard~~

1
2 ~~tariff service from the electric utility. The procedures in place~~
3
4 ~~for each electric utility as of January 1, 2008 that set forth the~~
5
6 ~~terms pursuant to which a customer receiving service from an~~
7
8 ~~alternative electric supplier may return to full service from the~~
9
10 ~~electric utility are ratified and shall remain in effect and may be~~
11
12 ~~amended by the commission as needed. If an electric utility did not~~
13
14 ~~have the procedures in place as of January 1, 2008, the commission~~
15
16 ~~shall adopt those procedures.~~

17
18 **(2021)** ~~(16)~~ The commission shall authorize rates that will
19
20 ensure that an electric utility that offered retail open access
21
22 service from 2002 through ~~the effective date of the amendatory act~~
23
24 ~~that added this subsection~~ **OCTOBER 6, 2008** fully recovers its
25
26 restructuring costs and any associated accrued regulatory assets.
27
28 This includes, but is not limited to, implementation costs,
29
30 stranded costs, and costs authorized pursuant to ~~UNDER~~ section
31
32 10d(4) as it existed prior to the effective date of the amendatory
33
34 ~~act that added this subsection,~~ **BEFORE OCTOBER 6, 2008**, that have
35
36 been authorized for recovery by the commission in orders issued
37
38 ~~prior to the effective date of the amendatory act that added this~~
39
40 ~~subsection.~~ **BEFORE OCTOBER 6, 2008**. The commission shall approve
41
42 surcharges that will ensure full recovery of all such costs ~~within~~
43
44 ~~5 years of the effective date of the amendatory act that added this~~
45
46 ~~subsection.~~ **BY OCTOBER 6, 2013**.

47
48 ~~— (17) As used in subsections (1) and (15):~~

1
2 ~~—— (a) "Customer" means the building or facilities served through~~
3
4 ~~a single existing electric billing meter and does not mean the~~
5
6 ~~person, corporation, partnership, association, governmental body,~~
7
8 ~~or other entity owning or having possession of the building or~~
9
10 ~~facilities.~~

11
12 ~~—— (b) "Standard tariff service" means, for each regulated~~
13
14 ~~electric utility, the retail rates, terms, and conditions of~~
15
16 ~~service approved by the commission for service to customers who do~~
17
18 ~~not elect to receive generation service from alternative electric~~
19
20 ~~suppliers.~~

21
22 **(2122) AS USED IN THIS SECTION:**
23

24 **(A) "AFFILIATE" MEANS A PERSON OR ENTITY THAT DIRECTLY, OR**
25
26 **INDIRECTLY THROUGH 1 OR MORE INTERMEDIATES, CONTROLS, IS CONTROLLED**
27
28 **BY, OR IS UNDER COMMON CONTROL WITH ANOTHER SPECIFIED ENTITY. AS**
29
30 **USED IN THIS SUBDIVISION, "CONTROL" MEANS, WHETHER THROUGH AN**
31
32 **OWNERSHIP, BENEFICIAL, CONTRACTUAL, OR EQUITABLE INTEREST, THE**
33
34 **POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR TO**
35
36 **CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF A PERSON OR**
37
38 **ENTITY OR THE OWNERSHIP OF AT LEAST 7% OF AN ENTITY EITHER DIRECTLY**
39
40 **OR INDIRECTLY.**

41
42 **(B) "AFFILIATE WHEELING" MEANS A PERSON'S USE OF DIRECT ACCESS**
43
44 **SERVICE WHERE AN ELECTRIC UTILITY DELIVERS ELECTRICITY GENERATED AT**
45
46 **A PERSON'S INDUSTRIAL SITE TO THAT PERSON OR THAT PERSON'S**
47
48 **AFFILIATE AT A LOCATION, OR GENERAL AGGREGATED LOCATIONS, WITHIN**

1
2 THIS STATE THAT WAS EITHER 1 OF THE FOLLOWING:
3

4 (i) FOR AT LEAST 90 DAYS DURING THE PERIOD FROM JANUARY 1,
5
6 1996 TO OCTOBER 1, 1999, SUPPLIED BY SELF-SERVICE POWER, BUT ONLY
7
8 TO THE EXTENT OF THE CAPACITY RESERVED OR LOAD SERVED BY SELF-
9
10 SERVICE POWER DURING THE PERIOD.

11
12 (ii) CAPABLE OF BEING SUPPLIED BY A PERSON'S COGENERATION
13
14 CAPACITY WITHIN THIS STATE THAT HAS HAD SINCE JANUARY 1, 1996 A
15
16 RATED CAPACITY OF 15 MEGAWATTS OR LESS, WAS PLACED IN SERVICE
17
18 BEFORE DECEMBER 31, 1975, AND HAS BEEN IN CONTINUOUS SERVICE SINCE
19
20 THAT DATE. A PERSON ENGAGING IN AFFILIATE WHEELING IS NOT AN
21
22 ELECTRIC SUPPLIER, AN ELECTRIC UTILITY, OR CONDUCTING AN ELECTRIC
23
24 UTILITY BUSINESS WHEN A PERSON ENGAGES IN AFFILIATE WHEELING.

25
26 (C) "APPLIANCE SERVICE PROGRAM" MEANS A SUBSCRIPTION PROGRAM
27
28 FOR THE REPAIR AND SERVICING OF HEATING AND COOLING SYSTEMS OR
29
30 OTHER APPLIANCES.

31
32 (D) "CUSTOMER" MEANS THE BUILDING OR FACILITIES SERVED THROUGH
33
34 A SINGLE EXISTING ELECTRIC BILLING METER AND DOES NOT MEAN THE
35
36 PERSON, CORPORATION, PARTNERSHIP, ASSOCIATION, GOVERNMENTAL BODY,
37
38 OR OTHER ENTITY OWNING OR HAVING POSSESSION OF THE BUILDING OR
39
40 FACILITIES.

41
42 (E) "PROGRAM" MEANS AN APPLIANCE SERVICE PROGRAM OR OTHER
43
44 VALUE ADDED PROGRAMS AND SERVICES, OR BOTH.

45
46 (F) "STANDARD TARIFF SERVICE" MEANS, FOR EACH REGULATED
47
48 ELECTRIC UTILITY, THE RETAIL RATES, TERMS, AND CONDITIONS OF

1
2 SERVICE APPROVED BY THE COMMISSION FOR SERVICE TO CUSTOMERS THAT DO
3
4 NOT ELECT TO RECEIVE GENERATION SERVICE FROM ALTERNATIVE ELECTRIC
5
6 SUPPLIERS.

7
8 (G) "VALUE ADDED PROGRAM" AND "VALUE ADDED SERVICE" MEANS AN
9
10 UNREGULATED NON-ELECTRIC UTILITY PROGRAM OR SERVICE THAT IS A
11
12 SEPARATE ACTIVITY FROM THE ELECTRIC UTILITY THAT PROVIDES A NET
13
14 FINANCIAL BENEFIT TO THE ELECTRIC UTILITY RATEPAYERS OF THE
15
16 ELECTRIC UTILITY OFFERING THE VALUE ADDED PROGRAMS OR SERVICES.
17

18
19 -PROPOSED REVISIONS TO OTHER SECTIONS-
20

21 Sec. 6a.

22
23 (10) AS USED IN THIS SECTION:

24
25 (A) "FULL AND COMPLETE HEARING" MEANS A HEARING THAT PROVIDES
26
27 INTERESTED PARTIES A REASONABLE OPPORTUNITY TO PRESENT AND CROSS
28
29 EXAMINE EVIDENCE FACTS AND PRESENT ARGUMENTS RELEVANT TO THE
30
31 SPECIFIC ELEMENT OR ELEMENTS OF THE REQUEST THAT ARE THE SUBJECT OF
32
33 THE HEARING.
34

35 (B) "GENERAL RATE CASE" MEANS A PROCEEDING INITIATED BY A
36
37 UTILITY IN AN APPLICATION FILED WITH THE COMMISSION THAT ALLEGES A
38
39 REVENUE DEFICIENCY AND REQUESTS AN INCREASE IN THE SCHEDULE OF RATE
40
41 OR CHARGES BASED ON THE UTILITY'S TOTAL COST OF PROVIDING SERVICE
42

43 (C) "EVIDENCE FACTS" MEANS EVIDENCE FACTS RELIED UPON TO
44
45 SUPPORT THE UTILITY'S PETITION OR APPLICATION TO INCREASE ITS RATES
46
47 AND CHARGES, OR TO ALTER, CHANGE OR AMEND ANY RATE OR RATE
48

1 SCHEDULE, INCLUDING ALL COSTS RELATED TO THE UTILITY'S TOTAL COST
2
3 OF PROVIDING SERVICE AND ALL ALLOCATION OF COSTS TO AND REVENUES
4
5 FROM APPLIANCE SERVICE PROGRAMS AND OTHER VALUE ADDED PROGRAMS AND
6
7 SERVICES.

DRAFT